

**SENATE CS FOR CS FOR HOUSE BILL NO. 304(FIN)**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIRST LEGISLATURE - SECOND SESSION

BY THE SENATE FINANCE COMMITTEE

Offered: 4/19/00

Referred: Rules

Sponsor(s): HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act relating to issuance and sale of revenue bonds to fund drinking water  
2 projects, to the Alaska clean water fund, to creation of an Alaska clean water  
3 administrative fund and an Alaska drinking water administrative fund, to fees to  
4 be charged in connection with loans made from the Alaska clean water fund and  
5 the Alaska drinking water fund, and to clarification of the character and  
6 permissible uses of the Alaska drinking water fund; amending Rule 3, Alaska  
7 Rules of Civil Procedure; and providing for an effective date."

8 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

9 \* **Section 1.** AS 37.15.560(a) is amended to read:

10 (a) For purposes of providing part of the money to be used to provide financial  
11 assistance to municipalities and other qualified entities under AS 46.03.032 and  
12 46.03.036 [FOR THE PURPOSES STATED IN AS 46.03.032(d)], including the costs  
13 of bond issuance and administration, the issuance and sale of revenue bonds of the

1 state is authorized subject to (b) of this section. The bonds are to be issued by the  
2 state bond committee, as provided in AS 37.15.560 - 37.15.605, as part of the Alaska  
3 clean water fund **and the Alaska drinking water fund** revolving loan fund **programs**  
4 [PROGRAM] (AS 46.03.032 **and 46.03.036**), [A] public **enterprises** [ENTERPRISE]  
5 of the state. The net proceeds of the sale of the bonds [,] remaining after any payment  
6 of costs of issuance and administration [,] shall be paid into the Alaska clean water  
7 fund **or the Alaska drinking water fund, as appropriate**. Accrued interest paid on  
8 the bonds shall be paid into the Alaska clean water fund **or the Alaska drinking**  
9 **water fund** for transfer to the Alaska clean water fund revenue bond redemption fund  
10 **or the Alaska drinking water fund revenue bond redemption fund** (AS 37.15.565),  
11 **as appropriate**.

12 \* Sec. 2. AS 37.15.560(b) is amended to read:

19 \* Sec. 3. AS 37.15.565 is amended to read:

20 Sec. 37.15.565. Bond redemption funds [FUND]. (a) There are [IS]  
21 established [A] special funds [FUND] of the state, known as the "Alaska clean water  
22 fund revenue bond redemption fund [,]" and the "Alaska drinking water fund  
23 revenue bond redemption fund," which are [IS A] trust funds [FUND] for paying  
24 and securing the payment of the principal of and interest and redemption premium, if  
25 any, on the bonds and which shall be at all times completely segregated and set apart  
26 from all other funds of the state. The committee, on behalf of the state, may obligate  
27 and bind the state to set aside and pay into the bond redemption funds [FUND], on  
28 a monthly or other periodic basis, any part or parts of, or all of, or a fixed proportion  
29 of, or a fixed amount of the money in the Alaska clean water fund (AS 46.03.032) or  
30 the Alaska drinking water fund (AS 46.03.036) sufficient to pay the principal of and  
31 interest and redemption premium, if any, on the bonds and, if it considers it necessary,

1 to set aside and maintain reserves for this purpose. The bond redemption **funds**  
 2 [FUND] shall be drawn upon only for the purpose of paying the principal of and  
 3 interest and redemption premium, if any, on the bonds, together with related trustee  
 4 fees, if any.

5 (b) Money in the bond redemption **funds** [FUND] may be invested in the same  
 6 manner and on the same conditions as permitted for investment of money belonging  
 7 to the state or held in the treasury under AS 37.10.070; however, the committee may  
 8 agree with the bondholders to further limit these investments. Earnings on investments  
 9 must be retained in the bond redemption **funds** [FUND].

10 (c) Separate accounts may be created in the bond redemption **funds** [FUND]  
 11 for the purposes of paying and securing the bonds. The accounts may be combined for  
 12 purposes of investment **and for financial support to achieve the purposes of**  
 13 **AS 37.15.570(c)**.

14 \* **Sec. 4.** AS 37.15.570(c) is amended to read:

15 (c) The committee may pledge to the payment of the principal of and interest  
 16 on bonds issued by the committee part or all of the legally available money or other  
 17 assets on hand in the Alaska clean water fund (AS 46.03.032) **or the Alaska drinking**  
 18 **water fund (AS 46.03.036)**; part or all of the revenue of the Alaska clean water fund  
 19 **or the Alaska drinking water fund**, including federal capitalization grants, the  
 20 proceeds of loan repayments, and interest on money in the **funds** [FUND]; the  
 21 proceeds of the sale of bonds; and money on hand in the bond redemption **funds**  
 22 [FUND]. Revenue of the Alaska clean water fund **or the Alaska drinking water fund**,  
 23 if so pledged, must be paid into the Alaska clean water fund **or the Alaska drinking**  
 24 **water fund, as appropriate**. The committee may provide for the issuance of  
 25 additional bonds, secured by a pledge of such money and revenue, ranking junior to,  
 26 senior to, or on a parity with, outstanding bonds, upon conditions prescribed in the  
 27 bond resolution. A pledge of loan repayments securing bonds may be made applicable  
 28 to specific loans from the Alaska clean water fund **or the Alaska drinking water**  
 29 **fund**, or, on a pooled basis, to all loan repayments received.

30 \* **Sec. 5.** AS 37.15.570(d) is amended to read:

31 (d) If the committee finds it reasonably necessary, the committee may select

1 a trustee or trustees for the holders of the bonds, or any series of them, for the  
 2 safeguarding and disbursement of any of the money in the bond redemption **funds**  
 3 [FUND] created by AS 37.15.565, or for duties with respect to the enforcement,  
 4 authentication, delivery, payment, and registration of the bonds as the committee may  
 5 determine. The committee shall fix the rights, duties, powers, and obligations of the  
 6 trustee or trustees.

7 \* **Sec. 6.** AS 37.15.570(e) is amended to read:

8 (e) In its determination of all matters and questions relating to the issuance and  
 9 sale of the bonds and the fixing of their maturities, terms, conditions, and covenants  
 10 as provided in (a) - (d) of this section, the decisions of the committee shall be those  
 11 that are reasonably necessary for the best interests of the state and its inhabitants and  
 12 that will accomplish the most advantageous sale of the bonds, with due regard,  
 13 however, for the continued funding under AS 46.03.032 **and AS 46.03.306** of the  
 14 categories of projects identified in AS 46.03.032(d) **and 46.03.036(b)**. Decisions of  
 15 the committee, as expressed in a bond resolution, are final and are conclusively  
 16 considered to comply with the requirements of AS 37.15.560 - 37.15.605, [AND]  
 17 AS 46.03.032, **and 46.03.036**.

18 \* **Sec. 7.** AS 37.15.570(f) is amended to read:

19 (f) A bond resolution may provide that the bonds issued must contain a recital  
 20 that they are issued under AS 37.15.560 - 37.15.605 and **under AS 46.03.032 or**  
 21 **46.03.036, as appropriate**, and a bond containing this recital is conclusively  
 22 considered to be valid and to have been issued in conformity with AS 37.15.560 -  
 23 37.15.605 and **with AS 46.03.032 or 46.03.036, as appropriate**.

24 \* **Sec. 8.** AS 37.15.573 is amended to read:

25 **Sec. 37.15.573. Bond resolution.** The committee shall authorize the issuance  
 26 of bonds by adopting a resolution and shall prepare all other documents and  
 27 proceedings necessary for the issuance, sale, and delivery of the bonds or any part or  
 28 series of them. The bond resolution must fix the principal amount, denominations,  
 29 date, maturities, manner of sale, place or places of payment, rights of redemption, if  
 30 any, terms, form, conditions, and covenants of the bonds or each series of them. A  
 31 bond resolution may state terms, conditions, amounts, and other limitations on loans

1 to be made from the Alaska clean water fund (AS 46.03.032) **or the Alaska drinking**  
 2 **water fund (AS 46.03.036), as appropriate**, from the relevant bond proceeds.

3 \* **Sec. 9.** AS 37.15.575 is amended to read:

4 **Sec. 37.15.575. State aid intercept.** If a municipality is in [THE] default on  
 5 the payment of principal or interest on a loan from the Alaska clean water fund  
 6 (AS 46.03.032) **or the Alaska drinking water fund (AS 46.03.036)**, the committee  
 7 may provide written notice of default to any state agency that is the custodian of  
 8 money that is payable to the municipality. If the committee determines to provide  
 9 notice, a separate written notice shall be given in each instance of default.  
 10 Notwithstanding any other provision of law, at any time after receipt of written notice  
 11 of default, the agency head shall withhold payment of the money from the  
 12 municipality. The agency head shall pay over the withheld money to the committee  
 13 for deposit in the Alaska clean water fund **or the Alaska drinking water fund, as**  
 14 **appropriate**, for the purpose of paying or securing the principal and interest on the  
 15 loan.

16 \* **Sec. 10.** AS 37.15.580 is amended to read:

17 **Sec. 37.15.580. Pledge of the state.** The state pledges to and agrees with the  
 18 holders of bonds issued by the committee under AS 37.15.560 - 37.15.605 and **under**  
 19 AS 46.03.032 **or 46.03.036, as appropriate**, that the state will not limit or alter the  
 20 rights and powers vested in the committee by AS 37.15.560 - 37.15.605 and **by**  
 21 AS 46.03.032 **or 46.03.036, as appropriate**, to fulfill the terms of any contract made  
 22 by the committee with the holders, or in any way impair the rights and remedies of the  
 23 holders until the principal amount of the bonds, together with the interest on them with  
 24 interest on unpaid installments of interest, are fully met and discharged. The  
 25 committee may include this pledge and agreement of the state in a contract with the  
 26 holders.

27 \* **Sec. 11.** AS 37.15.583(a) is amended to read:

28 (a) The owner or owners of not less than 10 percent of the aggregate principal  
 29 amount of any series or issue of bonds or the trustee for the owners of the bonds or  
 30 any series of them may, by appropriate proceedings in state court, require and compel  
 31 the transfer, setting aside, and payment of money and the enforcement of all of the

1        terms, conditions, and covenants as required and provided in AS 37.15.560 -  
 2        37.15.605, AS 46.03.032 or 46.03.036, as appropriate, and the bond resolution.

3        \* **Sec. 12.** AS 37.15.585 is amended to read:

4                **Sec. 37.15.585. Amounts required for payments.** The committee shall,  
 5        before June 30 of each year or from time to time within the year, as appropriate,  
 6        commencing with the year in which the bonds are issued, certify to the commissioners  
 7        of revenue and environmental conservation the amounts required in the current fiscal  
 8        year and the next ensuing fiscal year by the bond resolution or resolutions to be paid  
 9        out of the Alaska clean water fund or the Alaska drinking water fund into the  
 10        appropriate bond redemption fund and to be paid into and maintained in any reserve  
 11        fund or account or other fund or account created by the bond resolution or resolutions,  
 12        and shall also certify to the commissioners the last date or dates upon which payments  
 13        may be made.

14        \* **Sec. 13.** AS 37.15.587 is amended to read:

15                **Sec. 37.15.587. Purposes and sufficiency of revenue.** The proceeds of bonds  
 16        may be used for the purposes described in AS 46.03.032 or 46.03.036, as appropriate  
 17        [AS 46.03.032(d)]. Bonds may not be issued unless the committee first finds that  
 18        revenue to be derived from repayment of loans from the Alaska clean water fund or  
 19        the Alaska drinking water fund, as appropriate, will be sufficient, together with  
 20        other available money, to comply with all covenants of the bond resolutions.

21        \* **Sec. 14.** AS 37.15.590(b) is amended to read:

22                (b) The issuance of refunding bonds need not be authorized by the voters of  
 23        the state or by an act of the legislature. The committee shall adopt the resolution or  
 24        resolutions and prepare all other documents and proceedings necessary for the  
 25        issuance, exchange or sale, and delivery of the refunding bonds. All provisions of  
 26        AS 37.15.560 - 37.15.605 and of AS 46.03.032 and 46.03.036, as appropriate,  
 27        applicable to revenue bonds are applicable to the refunding bonds and to the issuance,  
 28        sale, or exchange of them, except as otherwise provided in this section.

29        \* **Sec. 15.** AS 37.15.605(1) is amended to read:

30                (1) "bond redemption funds [FUND]" means the Alaska clean water  
 31        fund revenue bond redemption fund and the Alaska drinking water fund revenue

1 bond redemption fund established in AS 37.15.565, as applicable;

2 \* Sec. 16. AS 37.15.605(3) is amended to read:

3 (3) "bonds" means the Alaska clean water fund revenue bonds or the  
4 Alaska drinking water fund revenue bonds authorized in AS 37.15.560 - 37.15.605,  
5 as applicable;

**6** \* Sec. 17. AS 37.15.605(7) is amended to read:

15 \* Sec. 18. AS 46.03.032(p)(1) is amended to read:

**16** (1) "other qualified entity" means

30 \* **Sec. 19.** AS 46.03.034 is repealed and reenacted to read:

**31 Sec. 46.03.034. Alaska clean water administrative fund.** (a) The Alaska

1 clean water administrative fund is established as a separate fund that is distinct from  
2 other money or funds in the treasury. The fund is composed of two accounts, the

- (1) Alaska clean water administrative operating account; and
- (2) Alaska clean water administrative income account.

14 (e) Money received in payment of fees charged by the department under the  
15 authority of AS 46.03.035 and earnings on the Alaska clean water administrative fund  
16 shall be deposited in the Alaska clean water administrative income account.

17 \* **Sec. 20.** AS 46.03 is amended by adding a new section to read:

**Sec. 46.03.035. Fees charged for loans made from the Alaska clean water fund.** The department may charge and collect reasonable fees in connection with making and servicing loans made by the department under the authority of AS 46.03.032. The department shall by regulation specify the rates and amounts of the fees.

23 \* Sec. 21. AS 46.03.036 is repealed and reenacted to read:

**24 Sec. 46.03.036. Alaska drinking water fund.** (a) The Alaska drinking water  
25 fund is established as a separate fund that is distinct from other money or funds in the  
26 treasury. The fund shall be administered by the department. The Alaska drinking  
27 water fund consists of the following items, all of which shall be deposited into the  
28 fund upon receipt:

29 (1) the proceeds and accrued interest received from the sale of revenue  
30 bonds issued under AS 37.15.560 - 37.15.605 and secured by the Alaska drinking  
31 water fund;

(2) money appropriated by the legislature, including federal capitalization grants;

(3) loan repayments; and

(4) interest received from loan repayments and interest received from investment of money in the Alaska drinking water fund.

(b) Except as otherwise limited by federal law, the department may use money in the Alaska drinking water fund to

(1) provide financial assistance for drinking water system projects, including projects to plan, design, build, construct, or rehabilitate a public drinking water collection, storage, treatment, or distribution system, to

(A) municipalities;

(B) organizations that are not exempted from regulation under (d), that provide water service under a certificate of convenience from the former Alaska Public Utilities Commission or the commission of Alaska, and that are economically regulated by the commission of Alaska;

(2) earn interest on the amounts deposited in the fund;

(3) pay the costs of administering the fund and conducting activities under this section and AS 37.15.560 - 37.15.605, including the costs of issuance and administration as defined in AS 37.15.605;

(4) pay and secure the payment of the principal of and interest on revenue bonds issued by the state and to pay the costs of issuance and administration of the bonds, so long as the proceeds of the bond sale are deposited in the Alaska drinking water fund;

(5) pay

(A) into the bond redemption fund (AS 37.15.565), and into any other bond redemption fund or account created by a relevant bond resolution, the amount certified by the state bond committee under AS 37.15.585; and

(B) the costs of the state bond committee in conducting activities under this section and AS 37.15.560 - 37.15.605, including the costs of issuance and administration as defined in AS 37.15.605.

(c) Repayment of loans shall be secured in a manner that the department determines is feasible to ensure prompt repayment under a loan agreement entered into with the borrower.

(d) Separate accounts may be created in the Alaska drinking water fund. The accounts may be combined for purposes of investment.

(e) The department may adopt regulations necessary to implement the Alaska drinking water fund in a manner consistent with federal law. The regulations adopted by the department under (h) of this section may establish different loan terms, charges, rates, and standards for different classes of borrowers to accommodate the different levels of risk and costs that the different classes may present.

(f) An organization that qualifies for financial assistance under (b)(1)(B) of this section or a municipality wishing to borrow money from the Alaska drinking water fund shall demonstrate to the satisfaction of the department that it

(1) has sufficient legal authority to incur the debt for which it is applying; and

(2) will establish and maintain a dedicated source of revenue or other acceptable revenue source for repayment of the loan and sufficient reserves for the loan as may be necessary.

(g) Allocation of Alaska drinking water fund loans shall be made in accordance with a priority list developed by the department, using criteria specified in regulations adopted by the department. A loan may not be made to an organization that is not a municipality to refinance debt of that organization.

(h) Before making a loan from the Alaska drinking water fund, the department shall, by regulation, specify

(1) standards for the eligibility of borrowers and the type of projects to be financed with loans;

(2) loan term and interest rate policies for loans made from the fund;

(3) standards regarding the technical and economic viability and revenue of self-sufficiency of eligible projects;

(4) collateral or other security required for loans;

(5) terms of loans; and

(6) other relevant standards or procedures.

(i) Except as necessary to comply with the covenants of a bond resolution under AS 37.15.573, a loan made by the department shall be made according to the standards and procedures established by regulations under this section. A loan made from the Alaska drinking water fund may be subject to the state aid intercept provisions of AS 37.15.575.

(j) The department shall also prepare reports and notices, including notices of default, required by the state bond committee in conjunction with bonds issued under AS 37.15.560 - 37.15.605.

(k) Regulations adopted by the department under this section that would affect issuance or repayment of revenue bonds under AS 37.15.560 - 37.15.605 may not be inconsistent with those statutes or with regulations adopted by the state bond committee under those statutes. To the extent that regulations adopted by the department are inconsistent with AS 37.15.560 - 37.15.605, with regulations adopted by the state bond committee under those statutes, or with the covenants of a bond resolution adopted under AS 37.15.573, the provisions of AS 37.15.560 - 37.15.605, the regulations adopted under those statutes, and the covenants of the bond resolution govern.

\* **Sec. 22.** AS 46.03.038 is repealed and reenacted to read:

**Sec. 46.03.038. Alaska drinking water administrative fund.** (a) The Alaska drinking water administrative fund is established as a separate fund that is distinct from other money or funds in the state treasury. The fund is composed of two accounts, the

(1) Alaska drinking water administrative operating account; and

(2) Alaska drinking water administrative income account.

(b) The legislature may appropriate to the Alaska drinking water administrative operating account the annual balance of the Alaska drinking water administrative income account.

(c) The department shall administer the Alaska drinking water administrative fund.

(d) The Alaska drinking water administrative operating account may be used to pay for the department's operational and administrative costs necessary to manage

1       the Alaska drinking water fund and the Alaska drinking water administrative fund and  
2       for such other purposes permitted by federal law.

3               (e) Money received in payment of fees charged by the department under the  
4       authority of AS 46.03.039 and earnings on the Alaska drinking water administrative  
5       fund shall be deposited in the Alaska drinking water administrative income account.

6       \* **Sec. 23.** AS 46.03 is amended by adding a new section to read:

7               **Sec. 46.03.039. Fees charged for loans made from the Alaska drinking**  
8       **water fund.** The department may charge and collect reasonable fees in connection  
9       with making and servicing loans made by the department under the authority of  
10      AS 46.03.036. The department shall by regulation specify the rates and amounts of  
11      such fees.

12       \* **Sec. 24.** The uncodified law of the State of Alaska is amended by adding a new section  
13      to read:

14               INDIRECT COURT RULE AMENDMENT. The provisions of sec. 11 of this Act  
15      have the effect of changing Rule 3, Alaska Rules of Civil Procedure, by limiting to the  
16      Superior Court for the State of Alaska, First Judicial District at Juneau the venue district in  
17      which a proceeding under AS 37.15.583(a) may be commenced and conducted.

18       \* **Sec. 25.** The uncodified law of the State of Alaska is amended by adding a new section  
19      to read:

20               TEMPORARY LIMITATION ON LOANS. Until July 1, 2002, loans may be made  
21      from the Alaska drinking water fund only to municipalities, notwithstanding the provision  
22      authorizing financial assistance to certain other organizations in AS 46.03.036(b)(1)(B), as  
23      repealed and reenacted in sec. 21 of this Act.

24       \* **Sec. 26.** The uncodified law of the State of Alaska is amended by adding a new section  
25      to read:

26               CONDITIONAL EFFECT. Section 11 of this Act takes effect only if sec. 24 of this  
27      Act receives the two-thirds majority vote of each house required by art. IV, sec. 15,  
28      Constitution of the State of Alaska.

29       \* **Sec. 27.** The uncodified law of the State of Alaska is amended by adding a new section  
30      to read:

31               TRANSITION: REGULATIONS. The respective state agencies may proceed to adopt

- 1 any regulations necessary to implement their duties under this Act. The regulations take effect
- 2 under AS 44.62 (Administrative Procedure Act), but not before the effective date of secs. 1 -
- 3 23 and 25 of this Act.
- 4 \* **Sec. 28.** Section 27 of this Act takes effect immediately under AS 01.10.070(c).